

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MYKAI DAVIS,	:	
	:	
Petitioner,	:	
	:	<u>ORDER</u>
v.	:	
	:	18 CV 1308 (VB)
UNITED STATES OF AMERICA,	:	S2 14 CR 768-05 (VB)
	:	
Respondent.	:	
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On February 14, 2018, petitioner Mykai Davis, proceeding pro se, moved under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence imposed on July 14, 2017, respecting his conviction of one count of conspiracy to participate in the affairs of a racketeering enterprise, in violation of 18 U.S.C. § 1962(d), and one count of use and possession of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c). (18 CV 1308 Doc. #1).

By Opinion and Order dated July 30, 2019, the Court granted in part and denied in part petitioner's Section 2255 motion. (18 CV 1308 Doc. #59). Specifically, the Court concluded petitioner's Section 924(c) firearms conviction must be vacated in light of United States v. Davis, 139 S. Ct. 2319 (2019), and that petitioner must be re-sentenced on the racketeering conspiracy count. (Id. at 19). At the time, the Court declined to enter a judgment in 18 CV 1308, stating: "After Davis is resentenced, the Court will enter an amended judgment in the criminal case and a final judgment in the civil case." (Id.).

Petitioner's Section 2255 motion was denied in all other respects.

On July 10, 2020, petitioner was re-sentenced in the criminal case. An amended judgment, dated July 10, 2020, was entered in the criminal case on July 13, 2020. (14 CR 768-05 Doc. #469).

Accordingly, because petitioner has been re-sentenced and an amended judgment has been entered in the criminal case, is it HEREBY ORDERED:

1. The Clerk is instructed to (i) enter a final judgment in the civil case (18 CV 1308) in accordance with the Court's July 30, 2019, Opinion and Order (see 18 CV 1308 Doc. #59 at 19), and (ii) close case no. 18 CV 1308.

2. The Clerk is further instructed to update petitioner's address on the civil case docket (18 CV 1308) to the following address, as petitioner is no longer incarcerated at USP Lewisburg:

Mykai Davis
Reg. No. 71995-054
MCC New York
Metropolitan Correctional Center
150 Park Row
New York, NY 10007

As petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability will not issue. 28 U.S.C. § 2253(c)(2).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will mail a copy of this Order to petitioner at the above address.

Dated: July 20, 2020
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge